

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Telephone Number Portability; Petition of)	
SBC Communications Inc. for Forbearance)	CC Docket No. 95-116
Under 47 U.S.C. § 160(c) from the)	
Application of the Five-Year Recovery Period)	
for Local Number Portability Costs Under 47)	
C.F.R. § 52.33(a)(1))	
)	
Petition of SBC Communications Inc. for)	
Waiver of the Five-Year Recovery Period for)	
Local Number Portability Costs Under 47)	
C.F.R. § 52.33(a)(1))	
)	

COMMENTS OF ACUTA

ACUTA, Inc.: The Association for Communications Technology Professionals in Higher Education (“ACUTA”) respectfully submits these comments in response to the petitions by SBC, seeking authorization to assess end-user charges for local number portability (LNP) beyond the five-year cost recovery period currently permitted under section 52.33(a)(1) of the Commission’s rule.

ACUTA is a non-profit association whose members include over 800 institutions of higher education within the United States. ACUTA members include both large and small non-profit institutions of higher education, ranging from institutions with several hundred students to major research and teaching institutions with greater than 25,000 students. ACUTA member representatives are responsible for managing telecommunications services for students, faculty and staff on college and university campuses.

Due to the quantity of telephone numbers used by educational institutions, charges for LNP have been considerable, and ACUTA is concerned that SBC, through these petitions, is seeking to extend these costs even further.

When the FCC first determined that it would permit carriers to recover certain costs of implementing LNP by charging end-users a monthly fee, whether they actually utilize LNP or not, the Commission made a commitment to all consumers of telecommunications services that there would be a five-year time limit on this fee. If the Commission were to grant either of SBC’s petitions in this matter, and forbear enforcement of the rule or waive the rule entirely, it would in effect be allowing a fee that

had a specific starting point and end point to continue in perpetuity---as so many “temporary” fees and taxes have done in the past.

We do not believe that SBC has established sufficient grounds in either of these petitions to justify this major change in policy that would affect millions of consumers throughout SBC’s service area.

As the Commission is aware, the original stated purpose of the LNP cost recovery fee was to compensate carriers for creating new facilities, physically upgrading or improving the existing public switched telephone network, as well as performing the ongoing functions associated with providing long-term number portability. The five-year cost recovery period was established on the premise that the cost of the upgrades and modifications necessary to implement LNP in a particular area would be recovered within that period of time. After that point, it was assumed that the cost of maintaining ongoing LNP functions would become a routine part of doing business, incorporated into the cost and rate structure that supports other ongoing operations. SBC has not provided sufficient documentation to demonstrate that it has not recovered its upgrade costs.

In addition, current Commission rules permit carriers to assess a fee to consumers that actually port numbers to a different service provider. Those charges should be sufficient to maintain the ongoing costs of providing LNP service.

If the Commission should consider granting either of these petitions, any forbearance or waiver of the five-year time limit should be for a fixed and limited period of time. The stated intent of the LNP cost recovery fee was to provide reimbursement for certain implementation costs---not to become an ongoing source of revenue.

In addition, we urge the Commission to consider the likely fall-out from granting either of these petitions. We believe that such a decision would result in a cascade of similar requests from other carriers, seeking to retain the ability to charge all of their customers a monthly LNP cost recovery fee. Before granting any such request, the FCC should require a high burden of proof that carriers have not been fully reimbursed for their initial implementation costs---a burden which SBC has not met in either of the petitions that are now before the Commission.

Conclusion

ACUTA urges the Commission to keep its promise to consumers that monthly charges on end-users for LNP cost recovery would have an end point of five years beyond the date on which LNP becomes available in a particular area. SBC has not provided justification in its petitions that the monthly LNP charge has not been sufficient to allow the petitioner to recover its implementation costs for this service. In addition, SBC retains the right to assess a charge to consumers at the time their number is ported. This will provide a source of revenue to reimburse carriers for their ongoing costs.

Respectfully Submitted,

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On behalf of ACUTA

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